[Initiative Ordinance - Business and Tax Regulations Code - Three-Quarter Cent Sales Tax Increase]

Ordinance amending the Business and Tax Regulations Code to impose a transactions (sales) and use tax at the rate of three-quarters of one percent (0.75%) for a period of 25 years, to be administered by the State Board of Equalization in accordance with Parts 1.6 and 1.7 of Division 2 of the California Revenue and Taxation Code; and increasing the City's appropriations limit by the amount of the tax increase for four years from November 8, 2016; and directing submission of the tax for voter approval at the November 8, 2016 general municipal election.

NOTE: Unchanged Code text and uncodified text are in plain font. Additions to Codes are in single-underline italics Times New Roman font. Deletions to Codes are in strikethrough italics Times New Roman font. Asterisks (*) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Board of Supervisors hereby submits the following ordinance to the voters of the City and County of San Francisco, at the general municipal election to be held on November 8, 2016.

Section 2. The Business and Tax Regulations Code is hereby amended by adding Article 12-E, consisting of Sections 1220 through 1234, to read as follows:

SEC. 1220. TITLE.

This Article 12-E shall be known as the San Francisco Transactions and Use Tax Ordinance. The City and County of San Francisco hereinafter shall be called "City and County." This Article shall be applicable in the incorporated and unincorporated territory of the City and County.
SEC. 1221. OPERATIVE DATE.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the effective date of this Article 12-E.

SEC. 1222. PURPOSE.

This Article 12-E is adopted to achieve the following, among other purposes, and directs that its provisions be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285 of Part 1.7 of Division 2 which authorize the City and County to adopt this Article which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(b) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(c) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

(d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of recordkeeping upon persons subject to taxation.
under the provisions of this Article.

SEC. 1223. CONTRACT WITH STATE.

Prior to the operative date, the City and County shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this Article 12-E; provided, that if the City and County shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

SEC. 1224. TRANSACTIONS TAX RATE.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated and unincorporated territory of the City and County at the rate of 0.75% of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

SEC. 1225. PLACE OF SALE.

For the purposes of this Article 12-E, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.
SEC. 1226. USE TAX RATE.

An excise tax is hereby imposed on the storage, use, or other consumption in the City and County of tangible personal property purchased from any retailer on and after the operative date of this Article 12-E for storage, use, or other consumption in said territory at the rate of 0.75% of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

SEC. 1227. ADOPTION OF PROVISIONS OF STATE LAW.

Except as otherwise provided in this Article 12-E and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Article as though fully set forth herein.

SEC. 1228. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code pursuant to Section 1227:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City and County shall be substituted therefor. However, the substitution shall not be made when:

(1) The word "State" is used as a part of the title of the State Controller, State Treasurer, Victim Compensation & Government Claims Board, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City and County or any agency, officer, or employee thereof rather than by or against the State Board
of Equalization, in performing the functions incident to the administration or operation of this Article 12-E.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or

(B) Impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not be subject to tax by the State under the said provision of that code.

(4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(b) The word "City and County" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

SEC. 1229. PERMIT NOT REQUIRED.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Article 12-E.

SEC. 1230. EXEMPTIONS AND EXCLUSIONS.

(a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any
state-administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax the gross receipts from:

(1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the City and County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

(2) Sales of property to be used outside the City and County which is shipped to a point outside the City and County, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this subsection (b)(2), delivery to a point outside the City and County shall be satisfied:

(A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City and County address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

(B) With respect to commercial vehicles, by registration to a place of business out-of-City and County and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Article 12-E.
(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Article 12-E.

(5) For the purposes of subsections (b)(3) and (b)(4) of this Section 1230, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There are exempted from the use tax imposed by this Article 12-E the storage, use, or other consumption in this City and County of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Article 12-E.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Article 12-E.

(5) For the purposes of subsections (c)(3) and (c)(4) of this Section 1230, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal
property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for
which any party to the contract or lease has the unconditional right to terminate the contract or lease
upon notice, whether or not such right is exercised.

(6) Except as provided in subsection (7) of this Section 1230, a retailer engaged in
business in the City and County shall not be required to collect use tax from the purchaser of tangible
personal property, unless the retailer ships or delivers the property into the City and County or
participates within the City and County in making the sale of the property, including, but not limited to,
soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the
City and County or through any representative, agent, canvasser, solicitor, subsidiary, or person in the
City and County under the authority of the retailer.

(7) "A retailer engaged in business in the City and County" shall also include any
retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing
with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section
21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5
(commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax
from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City
and County.

(d) Any person subject to use tax under this Article 12-E may credit against that tax any
transactions tax or reimbursement for transactions tax paid to a City and County imposing, or retailer
liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with
respect to the sale to the person of the property the storage, use, or other consumption of which is
subject to the use tax.

SEC. 1231. AMENDMENTS.

All amendments subsequent to the effective date of this Article 12-E to Part 1 of Division 2 of
the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Article, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Article.

SEC. 1232. ENJOINING COLLECTION FORBIDDEN.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the City and County, or against any officer of the State or the City and County, to prevent or enjoin the collection under this Article 12-E, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SEC. 1233. SEVERABILITY.

If any provision of this Article 12-E or the application thereof to any person or circumstance is held invalid, the remainder of the Article and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 1234. TERMINATION DATE.

The authority to levy the tax imposed by this Article 12-E shall expire 25 years after the operative date.

Section 3. Appropriations Limit Increase. Pursuant to California Constitution Article XIII B and applicable laws, for four years from November 8, 2016, the appropriations limit for the City shall be increased by the aggregate sum collected by the levy of the San Francisco Mayor Lee; Supervisors Farrell, Wiener
BOARD OF SUPERVISORS
County Transactions and Use Tax (Business and Tax Regulations Code, Article 12-E) imposed by this ordinance.

Section 4. Pursuant to Article XIII C of the Constitution of the State of California and Section 7285 of the California Revenue and Taxation Code, this ordinance shall be submitted to the qualified electors of the City and County of San Francisco at the November 8, 2016, general municipal election.

Section 5. Effective Date. The ordinance shall be effective at the close of the polls of the November 8, 2016, general municipal election.

Section 6. Letter Designation. Notwithstanding Municipal Elections Code Section 505, the Director of Elections shall assign successive letter designations to the Charter Amendment bearing Board of Supervisors’ File No. 160581 and this ordinance. The Director of Elections shall determine the letter designation for the Charter Amendment bearing Board of Supervisors’ File No. 160581 by following the procedures set forth in Municipal Elections Code Section 505, and shall designate the next letter in the alphabet for this ordinance.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: CAROLE F. RUWART
Deputy City Attorney

n:legana\as2016\150070901118637.docx
Ordinance amending the Business and Tax Regulations Code to impose a transactions (sales) and use tax at the rate of three-quarters of one percent (0.75%) for a period of 25 years, to be administered by the State Board of Equalization in accordance with Parts 1.6 and 1.7 of Division 2 of the California Revenue and Taxation Code; and increasing the City's appropriations limit by the amount of the tax increase for four years from November 8, 2016, and directing submission of the tax for voter approval at the November 8, 2016, general municipal election.

July 06, 2016 Budget and Finance Sub-Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

July 06, 2016 Budget and Finance Sub-Committee - CONTINUED AS AMENDED

July 13, 2016 Budget and Finance Sub-Committee - RECOMMENDED

July 19, 2016 Board of Supervisors - PASSED ON FIRST READING
   Ayes: 8 - Avalos, Breed, Campos, Cohen, Farrell, Mar, Tang and Wiener
   Noes: 3 - Kim, Peskin and Yee

July 26, 2016 Board of Supervisors - FINALLY PASSED
   Ayes: 8 - Avalos, Breed, Campos, Cohen, Farrell, Mar, Tang and Wiener
   Noes: 3 - Kim, Peskin and Yee

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 7/26/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Galvillo
Clerk of the Board

Mayor

Date Approved